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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 LEILANI JIMENEZ, individually, and as  
12 successor-in-interest for Decedent DENNIS  
13 JIMENEZ; J.J., a minor, by and through his  
14 guardian ad litem Leilani Jimenez; D.J., a minor,  
15 by and through her guardian ad litem Leilani  
16 Jimenez, and DENNIS JIMENEZ, Jr. an  
17 individual; DENISE GAINES, an individual; and  
18 ANITA JIMENEZ, an individual,

No. C 13-04620 CRB

**ORDER DENYING WITHOUT  
PREJUDICE DEFENDANTS' MOTION  
FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff,

v.

19 COUNTY OF ALAMEDA, et al.,

Defendant.

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20 Defendants have moved for partial summary judgment. See Motion (dkt. 35).  
21 Plaintiffs' response notes that discovery in this matter has not been closed and that Plaintiff  
22 wishes to depose at least one additional witness. See Response (dkt. 38) at 9. Rule 56(d)  
23 provides that “[i]f a nonmovant shows by affidavit or declaration that, for specified reasons,  
24 it cannot present facts essential to justify its opposition, the court may: (1) defer considering  
25 the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery;  
26 or (3) issue any appropriate order.” Fed. R. Civ. P. 56(d). Here, the Nisenbaum Declaration  
27 (dkt. 50) and the record before the Court meet the requirements of Rule 56(d). Therefore,  
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1 Defendants' motion is DENIED without prejudice and the October 9, 2015 hearing on the  
2 motion is VACATED.

3 **IT IS SO ORDERED.**

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5 Dated: October 5, 2015  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE